

REMARKS

Applicant notes the brief conversation with Examiner Christopher Revak on August 7, 2006 indicating that Applicant would be forwarding a response to the July 24, 2006 office action, and requesting an interview, if necessary, after the response is filed.

Claims 1-13 are pending in the application. Reconsideration is requested in view of the above amendments and the following remarks.

The Examiner has considered the Applicant's arguments, but has maintained the rejections.

The Applicant notes the provisional rejections as recited in the prior response. Claims 1-13 stand rejected as being provisionally rejected on the ground of nonstatutory obviousness-type double patenting in view of:

claims 4-17 of copending application no. 09/800,328;

claims 1-36 of copending application no. 10/655,387; and

claims 1-12 of copending application no. 09/838,979.

As previously stated, reconsideration of the rejection is respectfully requested in view of the above amendments and the remarks presented herein. In the event the Examiner maintains this rejection, Applicant acknowledges that it may be overcome by submitting a terminal disclaimer.

Claims 1-13 stand rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,070,528 ("Hawe") in view of US Patent 6,393,568 ("Ranger"). This rejection is respectfully but strenuously traversed and reconsideration and a withdrawal of the rejection is hereby respectfully requested.

Applicant has noted that the Applicant's present invention relates to and claims processing code on a communications channel, which in effect, involves a stream, not a file, per se. This is an important consideration, since Hawe has been cited in combination with Ranger. Applicant, from a review of Ranger, believes that Ranger relates to files, and not a communications stream. Applicant also believes that Hawe is deficient, since the disclosure of Hawe provides a solution which involves prepending a cryptographic preamble to the beginning of a packet, and stripping the preamble before transmission onto a network.

As the Applicant previously pointed out in the response filed on April 28, 2006, Hawe provides an appendage of information to the content being evaluated by Hawe. Taking Hawe for what it actually discloses, it pertains to being able to detect the information which has already been appended with a string. That is what Hawe is disclosing.

Applicant's invention is not disclosed by Hawe. Even if the Examiner's combination is made (i.e., of Hawe and Ranger), following Hawe's teaching still would include prepending a cryptographic preamble, and that is not the Applicant's invention. In other words, without the appendage Hawe would be rendered unfit for its intended purpose. Therefore, any meaningful application attempted by the Examiner, in particular, applying Ranger to Hawe, must also carry with it Hawe's operational method, which includes prepending a string to the front of a code sequence.

Since the Applicant's invention does not rely on the prepending of a string to the code, it should not be obvious in view of Hawe, even when Hawe is combined with Ranger. Applicant's invention claims the following:

apparatus for intercepting and processing code on a communications channel comprising: a protocol parser; and, a proscribed code scanner; whereby said protocol parser intercepts said code traveling on said channel and transmits said code for review by said proscribed code scanner; and whereby said scanner reintroduces to the communication channel all, some or none of the intercepted code

Nowhere in Applicant's claim does Applicant recite that it is prepending a preamble to the beginning of a packet.

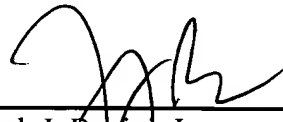
In addition, the combination of Ranger with Hawe would not result in the Applicant's present invention. The Examiner admits that Hawe is deficient of a teaching of a proscribed code scanner that reintroduces to a communications channel, all, some or none of the intercepted code. The Examiner attempts to look to Ranger to fill this deficiency. However, that combination is only made with the benefit of viewing the Applicant's present invention. The Examiner states that Hawe would look to Ranger as a means for scanning encrypted files for viruses by decrypting files prior to scanning. However, even if Hawe were combined with Ranger, Hawe's disclosure and teaching is to append a cryptographic preamble to identify the content. Thus what one would have upon this combination would not be the Applicant's claimed invention, but something else, which would involve appending preambles to files. Even the further combination of Ranger still does not result in the Applicant's claimed invention.

Applicant respectfully requests reconsideration of the pending claims, and earnestly solicits their allowance. In the event further matters remain in connection with the application, an interview is requested.

If necessary, an appropriate extension of time to respond is respectfully requested.

The Commissioner is authorized to charge any additional fees which may be required to Patent Office Deposit Account No. 05-0208.

Respectfully submitted,
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